

REMARKS

With entry of this amendment, claims 1, 2, 19, and 21-46 are pending in this application, claims 1 and 2 of which stand rejected, claim 19 of which stands objected to but recites allowable subject matter, claim 21 of which is allowed, and claims 22-46 of which have been newly added. Claims 3-18 and 20 have been cancelled, thereby rendering the rejections and objections of these claims moot. Based on the foregoing amendments and following remarks, reconsideration and allowance of this application is respectfully requested.

Title Amendment

Applicant has amended the title of the application to more accurately reflect the claimed subject matter.

Claim Rejections-35 U.S.C. §102

Claims 1 and 2 stand rejected under 35 U.S.C. §102(e), as being anticipated by U.S. Patent Publication No. 2004/0037428 (“Keller”). Without acquiescence that Keller is in fact a §102(e) prior art reference, and without prejudice to antedate this reference should it become necessary, Applicant respectfully traverses this rejection, since Keller does not disclose each and every element required by these claims, as amended.

In particular, independent claim 1 has been amended to require the audiometer to be configured to calibrate the plurality of speakers to compensate for environmental differences. By way of non-limiting example, such environmental differences can be differences in environmental acoustics and/or speaker placement. Support for this feature can be found in the specification, at page 6, lines 8-10. In contrast, Keller does not disclose that audiometric earphones are calibrated to compensate for environmental differences. In fact, in the prior art system disclosed in the

background of Keller, assumes that any environmental conditions, such as head size and variance in shape and size of auditory physiological structures, are constant (see paragraph [0004]). Thus, it would appear that the prior art system disclosed in Keller is merely performing calibration to compensate for differences in the componentry of the earphones themselves, rather than environmental differences.

Thus, Applicant submits that independent claim 1, as well dependent claim 2, is not anticipated by Keller, and as such, respectfully request withdrawal of the §102 rejections of these claims.

#### Claim Objections

Claim 19 stands objected to as reciting allowable subject matter, but depending from a rejected base claim. Because it is believed that claim 1 is now allowable, claim 19 should also be allowable. As such, Applicant respectfully requests withdrawal of the objection to claim 19.

#### Claim Allowance

Applicant graciously acknowledges the Examiner's allowance of claim 21.

#### Newly Added Claims

Applicant represents that newly added claims 22-46 are supported by the specification, as originally filed, and are patentable over the cited prior art.

In particular, claims 22-25 depend from independent claim 1, and are thus patentable over the cited prior art for at least the same reasons as claim 1.

Independent claims 26 and 35, as well as the claims depending therefrom (claims 27-34 and 36-40), require that the plurality of speakers be arranged within a testing room remote from the intended listener/patient position. Support for this feature can be found in the specification, at page

6, lines 1-8 and Fig. 1. In contrast, the earphones disclosed in the background of Keller are not arranged within a testing room remote from the intended listener/patient position. In addition, independent claims 25 and 40 require that the speakers be calibrated while they are arranged in the testing room. In contrast, earphones disclosed in the background appear to be calibrated prior to placement on the patient within a testing room.

Independent claim 41, as well as the claims depending therefrom (claims 41-46), requires a test probe that includes memory for storing information. For example, such information can be probe calibration information and/or probe configuration information, which the Examiner has stated is missing in the prior art. Support for this amendment can be found in the specification, at page 4, line 32 to page 5, line 5.

Conclusion

Based on the foregoing, it is believed that, with entry of this amendment, all claims are now allowable and a Notice of Allowance is respectfully requested. If the Examiner has any questions or comments regarding this amendment, the Examiner is respectfully requested to contact the undersigned at (714) 830-0600.

Respectfully submitted,



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